IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

WP(C).No. 1910 OF 2007(B)

PETITIONER:

OMANA JOSEPH,
W/O. JOSEPH VALIYAVEETTIL,
HOUSE NO: 15/241, RAMESHWARAM VILLAGE,
MUNDANVELI P.O., KOCHI.

BY ADV. SRI.P.VIJAYAKUMAR
SRI.ASHIM.M.V.
SRI.O.SAJEEVAN
SRI.S.VAIDYANATHAN

RESPONDENTS:

1. ADDITIONAL DISTRICT MAGISTRATE,
ERNAKULAM.

2. ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL SUB DIVISION, K.S.E.B.,
TRIKKAKARA, KAKKANAD.

3. JOHNY GEORGE,
MANAYATH HOUSE, THUTHIYOOR, P.O.CSEZ,
VAZHAKKALA VILLAGE, KANAYANNUR TALUK.

4. SOPHIYA, W/O. JOHNY GEORGE,
MANAYATH HOUSE, THUTHIYOOR, P.O.CSEZ,
VAZHAKKALA VILLAGE, KANAYANNUR TALUK.

5. P.A.ALEXANDER, S/O.P.ANTONY,
PARAPILLY HOUSE, THUTHIYOOR, P.O.CSEZ,
VAZHAKKALA VILLAGE, KANAYANNUR TALUK.

S.C. FOR K.S.E.B. SRI. JOSE J. MATHEIKEL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17.1.2007, THE COURT ON 22/01/2007, DELIVERED THE FOLLOWING:

P.R. RAMAN, J.

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W.P.(C) NO. 1910 OF 2007

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DATED THIS, THE 22ND DAY OF JANUARY, 2007

J U D G M E N T

Petitioner challenges Ext. P5 proceedings of the Additional District Magistrate, Ernakulam, in which she was the respondent. An application under Section 16(1) of the Indian Telegraph Act read with Section 51 of the Indian Electricity Act was filed by the petitioners therein seeking to remove the objection raised in the matter of drawing of electric line to the residence of one Johny George, the beneficiary. After issuing notice and conducting a hearing , the authority found that the existing post situates in a road which is used by the public for transport and no trees or branches of trees are to be cut and removed as per the purpose. It was on these reasoning that permission was granted to draw the line as proposed.

2. According to the petitioner, her husband is holding 43.80 Ares of property in R.S. 167/5 of Vazhakala Village. He is working abroad and in his absence, respondents 3 to 5 herein, who are neighbors of the property, attempted to encroach upon the property and caused damages. There are suits pending between the parties. It was in the meanwhile, that

respondents 3 and 4 with the concurrence of the 5th respondent moved the second respondent to draw the line through the property of her husband. Without considering the objection, the Additional District Magistrate passed the impugned order. Petitioner disputes the correctness of the statement that there is a pathway through her husband's property. Petitioner, however, did not produce a copy of the sketch or other materials based on which it could be found as to whether there is any other alternate proposal causing least inconvenience to the parties. It is settled that in the matter of drawing of an electric line it need not necessarily be over any public pathway. But while drawing the electric line, least inconvenience should be caused to the property owners. The finding of the authority regarding any pathway also will not bind the petitioner. I make it clear that in the civil dispute, if any, pending between the parties will be decided untrammeled by any such finding in Ext.P5. As I have already stated, except that there is a dispute between the parties regarding the existence or non existence of a pathway which is a property dispute, there is no sufficient materials produced to show that the drawing of the electric line will in any way adversely affect the petitioner's right as such, or that the drawing of the electric line is not feasible.

In the circumstances, I find no merit in this writ petition. Subject to the above observation, this writ petition is dismissed.

P.R. RAMAN,
JUDGE.

knc/-